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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,317	05/15/2001	Dhiren K. Marjadi	AEI-177-A	1121
7590 11/30/2006			EXAMINER	
Andrew R. Basile Young & Basile, P.C. 3001 West Big Beaver Road, Suite 624 Troy, MI 48084			AUGUSTIN, EVENS J	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/855,317

Applicant(s)

MARJADI ET AL.

Examiner

Evans Augustin

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/13/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Status of Claims*

1. Applicant's arguments in the appeal brief sent on 9/13/06 have been found to be persuasive and, therefore, the finality of that action is withdrawn. A new reference is introduced, forming a new ground of rejection.
2. Claims 1-12 have been examined.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano (U.S. 5,671,412), in view of Wyman (U.S. 5,745,879).

As per claims 1-12, Christiano discloses a license management system for software applications. The system can do the following:

- Provide licensed units to users (column 3, line 46)
- Provide license to components of a package (column 4, lines 15-17)
- Assign a minimum amount of units that a particular digital content requires to be used (column 17, lines 36-38)
- Assign check out units based on the number of units being used by requester (column 19, line 67, column 20, lines 1-2)

Art Unit: 3621

- A license is granted when the requested units **plus** the checked out units are less than or equal to the total licensed units (column 29, lines 4-9, column 20 lines 1-3). A license is denied if the logic is false (figure 9, item 174).
- Each software program requires a minimum amount of units, in order for that particular program to be checked out (column 29, lines 20-24). The requested units for a particular program have to be greater than or equal to the minimum amount of units for that particular application (column 19, lines 40-45)
- When the requested amounts of units are being used, the available total licensed units are reduced by the requested units (column 29, lines 35-38). Therefore, the units are charged against the total available units during execution of the requested software.

However, Christiano did not explicitly describe a system in which the licensed units can be distributed between a server and the user computer/network. The USPTO is introducing the aspect of Application Service Provider (ASP), as a server hosting applications for end users. Accordingly Wyman teaches an invention that relates to methods of operation of computer systems, and more particularly to a method and system for managing the licensing of software executed on computer systems. According to Wyman the invention includes:

- Units granted in the product use authorization may be delegated to another server (column 7, lines 11-12)
- Units are granted to users or to a delegated server, which has some subset of the original product's units (column 11, lines 17-20)
- Units are deducted from an available pool when a user node makes a valid request (column 6, lines 48-49)

Art Unit: 3621

- The invention determines whether or not the available units is zero or too small to permit the requested use (column 35-37)
- If determination is false, the user can make the proper provision or the application can itself be structured to shut itself down if not authorized to run, or it can be structured to shut down certain functions (e.g., ability to save files, ability to print, etc.) (column 12, lines 55-57)
- Number of units available for future use declines upon every use of the licensed software product (column 14, lines 29-30)

Therefore, it would have been obvious for one skilled in the art of digital content distribution and delivery over an open network to combine Christiano's invention, which deals with a license management system for software applications, with Wyman's invention concerning methods of operation of computer systems, and more particularly to a method and system for managing the licensing of software executed on computer systems. It would have been obvious because (motivation) according to Wyman, the delegation of units allows an administrator to distribute units to improve response time and increase the resilience of the system (column 11, lines 46-48), and may be used as a method of allocating licensed units within a budget for administrative purposes (column 11, lines 54-55)

**Conclusion**

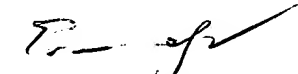
5. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - **Carrithers et al. (US 5689100)** - Invention relates to a computer and data processing system for implementing an incentive award program and, in particular, a system which employs debit cards allowing participants to purchase rewards by electronic debit transactions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.

Art Unit: 3621

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-6584.



Evens J. Augustin  
November 27, 2006  
Art Unit 3621



ANDREW J. FISCHER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600